

BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. OT2009-15

ANNE MARIE HICKEY
5 Embarcadero West Apartment 224
Oakland, California 94607
Occupational Therapist License No. OT
7080


Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Occupational Therapy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 19, 2010.

It is so ORDERED July 20, 2010.


FOR THE CALIFORNIA BOARD OF
OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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14 **Occupational Therapist License No. OT**
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STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Heather Martin (Complainant) is the Executive Officer of the California Board of
21 Occupational Therapy. She brought this action solely in her official capacity and is represented
22 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Diann
23 Sokoloff, Supervising Deputy Attorney General.

24 2. Respondent Anne Marie Hickey (Respondent) is representing herself in this
25 proceeding and has chosen not to exercise her right to be represented by counsel.

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3. On or about August 26, 2003, the California Board of Occupational Therapy issued Occupational Therapist License No. OT 7080 to Anne Marie Hickey (Respondent). The Occupational Therapist License was in full force and effect at all times relevant to the charges brought in Accusation No. OT2009-15 and will expire on February 28, 2011, unless renewed.

JURISDICTION

4. Accusation No. OT2009-15 was filed before the California Board of Occupational Therapy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 25, 2010. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. OT2009-15 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. OT2009-15. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. OT2009-15.

1 9. Respondent agrees that her Occupational Therapist License is subject to discipline
2 and she agrees to be bound by the California Board of Occupational Therapy (Board)'s
3 imposition of discipline as set forth in the Disciplinary Order below.

4 CIRCUMSTANCES IN MITIGATION

5 10. Respondent Anne Marie Hickey has never been the subject of any disciplinary action.
6 She is admitting responsibility at an early stage in the proceedings.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the California Board of Occupational
9 Therapy. Respondent understands and agrees that counsel for Complainant and the staff of the
10 California Board of Occupational Therapy may communicate directly with the Board regarding
11 this stipulation and settlement, without notice to or participation by Respondent. By signing the
12 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Occupational Therapist License No. OT 7080 issued to Respondent Anne Marie Hickey (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Respondent shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five (5) days of occurrence.

2. **Compliance with Probation and Quarterly Reporting.** Respondent shall fully comply with the terms and conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with probation. Respondent, within ten (10) days of completion of the quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance form obtained from the Board.

3. **Personal Appearances.** Upon reasonable notice by the Board, respondent shall report to and make personal appearances at times and locations as the Board may direct.

4. Notification of Address and Telephone Number Change(s).

Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of her new address and any change in work and/or home telephone numbers.

5. Tolling for Out-of-State Practice, Residence or In-State Non-Practice.

In the event respondent should leave California to reside or to practice outside the State for more than thirty (30) days, respondent shall notify the Board or its designee in writing within ten (10) days of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until respondent resumes practice in California. All provisions of probation shall

1 recommence on the effective date of resumption of practice in California.

2 **6. Notification to Employer(s).** When currently employed or applying for employment
3 in any capacity in any health care profession, Respondent shall notify her employer of the
4 probationary status of respondent's license. This notification to the current employer shall occur
5 no later than the effective date of the Decision. Respondent shall notify any prospective health
6 care employer of her probationary status with the Board prior to accepting such employment.
7 This notification shall be made by providing the employer or prospective employer with a copy of
8 the Board's Accusation and Stipulated Settlement and Disciplinary Decision and Order.

9 Respondent shall cause each health care employer to submit quarterly reports to the Board.
10 The reports shall be on a form provided by the Board, shall include a performance evaluation and
11 such other information as may be required by the Board.

12 Respondent shall notify the Board, in writing, within five (5) days of any change in
13 employment status. Respondent shall notify the Board, in writing, within five (5) days if she is
14 terminated from any occupational therapy or health care related employment with a full
15 explanation of the circumstances surrounding the termination.

16 **7. Employment Requirements and Limitations.** During probation, respondent shall
17 work in her licensed capacity in the State of California. This practice shall consist of no less than
18 (6) continuous months and of no less than twenty (20) hours per week.

19 While on probation, respondent shall not work for a registry or in any private duty position,
20 except as approved, in writing, by the Board. Respondent shall work only on a regularly
21 assigned, identified, and pre-determined work site(s) and shall not work in a float capacity except
22 as approved, in writing, by the Board.

23 **8. Supervision Requirements.** Respondent shall obtain prior approval from the Board,
24 before commencing any employment, regarding the level of supervision provided to the
25 respondent while employed as an occupational therapist or occupational therapy assistant.

26 Respondent shall not function as a supervisor during the period of probation except as
27 approved, in writing, by the Board.

28 **9. Continuing Education Requirements.** Respondent shall complete continuing

1 education in the areas of Law and Ethics for twelve (12) contact hours. Such continuing
2 education shall be completed within one (1) year of the effective date of the Decision.

3 Continuing education shall be in addition to the professional development activities
4 required for license renewal.

5 Within thirty (3) days of the effective date of the Decision, respondent shall submit a
6 written plan to comply with this requirement. The proposed plan shall include the name or title fo
7 the course, a course description or syllabus, and identify the provider. A Board representative
8 shall approve such plan prior to enrollment in any course of study.

9 Failure to satisfactorily complete the required continuing education as scheduled shall
10 constitute a violation of probation. Respondent is responsible for all costs of such continuing
11 education. Upon successful completion of the course work, respondent shall send the original
12 certificate(s) to the Board by certified mail, return receipt requested.

13 10. **Maintenance of Valid License.** Respondent shall, at all times while on probation,
14 maintain an active current license with the Board, including any period during which license is
15 suspended or probation is tolled.

16 11. **Cost Recovery Requirements.** Respondent shall reimburse the Board \$1,920.00 as,
17 and for, the reasonable costs of the investigation and enforcement of this matter pursuant to
18 Business and Professions Code section 125.3. Respondent shall be permitted to pay these costs in
19 24 monthly installments of \$80.00 per month. The first payment to begin 30 days after the
20 effective date of the decision and every subsequent payment to be paid in 30-day intervals.

21 Any order for payment of cost recovery shall remain in effect whether probation is tolled.
22 Probation shall not terminate until full payment has been made. Should any part of cost recovery
23 not be paid in accordance with an established payment schedule, respondent shall be considered
24 to be in violation of probation.

25 Respondent shall reimburse the Board in the form of a check, money order, or cashier's
26 check made payable to the California Board of Occupational Therapy or CBOT, and shall
27 indicate on the check or money order that it is the cost recovery payment for Case No. OT2009-
28 15.

1 Except as provided above, the Board shall not renew or reinstate the license of any
2 respondent who has failed to pay all the costs as directed in a Decision.

3 12. **Violation of Probation.** If respondent violates probation in any respect, the Board,
4 after giving respondent notice and opportunity to be heard, may revoke probation and carry out
5 the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed
6 against respondent during probation, the Board shall have continuing jurisdiction until the matter
7 is final, and the period of probation shall be extended until the matter is final.

8 13. **Completion of Probation.** Upon successful completion of probation, respondent's
9 license will be fully restored.

10 14. **Chemical Dependency Support/Recovery Groups.** Within five (5) days of the
11 effective date of the Decision, respondent shall begin attendance at a chemical dependency
12 support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Verified documentation of
13 attendance shall be submitted by respondent with each quarterly report. Respondent shall
14 continue attendance in such a group for the duration of probation.

15 15. **Abstain From Controlled Substances.** Respondent shall completely abstain from
16 the personal use or possession of controlled substances, as defined in the California Uniform
17 Controlled Substances Act, and dangerous drugs as defined in section 4021 and 4022 of the
18 Business and Professions Code, except when lawfully prescribed by a health care professional
19 legally authorized to do so, and as part of documented treatment.

20 Respondent shall have sent to the Board, in writing and within ten (10) days, by the
21 prescribing health professional, a report identifying the medication, dosage, the date the
22 medication was prescribed, the respondent's prognosis, the date the medication will no longer be
23 required, and the effect on the recovery plan, if appropriate.

24 **Clinical Diagnostic Evaluation**

25 Within forty five (45) days of the effective date of the Decision, respondent shall submit
26 to a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the
27 Board's Disciplinary Order prior to the evaluation. Cost of such evaluation shall be paid by
28 respondent.

1 The clinical diagnostic evaluation shall be performed by a licensed physician, psychiatrist,
2 psychologist, clinical social worker, or marriage family therapist who holds a valid, unrestricted
3 license to conduct clinical diagnostic evaluations, has a minimum of three (3) years experience in
4 providing evaluations of health professionals with substance abuse disorders, and is approved by
5 the Board. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
6 professional standards for conducting substance abuse clinical diagnostic evaluations.

7 The clinical diagnostic evaluation report shall consist of the evaluator's opinion, whether
8 the licensee has a substance abuse problem, is a threat to himself/herself or others; and any
9 recommendations for substance abuse treatment, practice restrictions, or other
10 recommendations related to the licensee's rehabilitation and safe practice.

11 The evaluator shall not have a financial relationship, personal relationship, or business
12 relationship with the licensee within the last five years. The evaluator shall provide an objective,
13 unbiased, and independent evaluation.

14 If the evaluator determines during the evaluation process that a licensee is a threat to
15 himself/herself or others, the evaluator shall notify the board within 24 hours of such
16 determination by telephone and follow with the written evaluation report. Upon being notified by
17 the Board, respondent shall immediately cease practice and may not resume practice until notified
18 by the Board. During this period of suspension, respondent shall not engage in any practice for
19 which a license issued by the Board is required, until the board has notified respondent that
20 based upon a subsequent clinical diagnostic evaluation, respondent is safe to resume practice.

21 If respondent fails to have the above assessment submitted to the board within the 45-day
22 requirement, respondent shall immediately cease practice and shall not resume practice until
23 notified by the Board.

24 Respondent shall cause the evaluator to submit a final written report to the board no later
25 than seven (7) days from the date of the evaluation unless the evaluator requests additional
26 information to complete the evaluation, not to exceed fifteen (15) days.

27 The respondent shall not commence any new employment until such time the clinical
28

1 diagnostic evaluation is complete, the board has received the final report, and employment is
2 approved.

3 16. **Abstain From Use of Alcohol.** Respondent shall completely abstain from the use of
4 alcoholic beverages during the period of probation.

5 17. **Submit Biological Fluid Samples.** Respondent shall immediately submit to
6 biological fluid testing, at respondent's cost, upon request by the Board or its designee.
7 Respondent shall be randomly drug tested at least 104 times per year for the first year and at any
8 time as directed by the Board. After the first year, licensees, who are practicing, shall be
9 randomly drug tested at least 50 times per year, and at any time as directed by the Board.

10 Drug testing may be required on any day, including weekends and holidays. The
11 scheduling of drug tests shall be done on a random basis, preferably by a computer program.
12 Respondent shall be required to make daily contact to determine if drug testing is required.
13 Licensees shall be drug tested on the date of notification as directed by the board.

14 Specimen collectors must either be certified by the Drug and Alcohol Testing Industry
15 Association or have completed the training required to serve as a collector for the U.S.
16 Department of Transportation. Specimen collectors shall adhere to the current U.S. Department
17 of Transportation Specimen Collection Guidelines. Testing locations shall comply with the Urine
18 Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless
19 of the type of test administered. Laboratories shall be certified and accredited by the U.S.
20 Department of Health and Human Services. Collection of all specimens shall be observed.

21 Prior to vacation or absence, alternative drug testing location(s) must be approved by the
22 board.

23 There will be no confidentiality in the test results; positive test results will be immediately
24 reported to the Board and the Board will inform the respondent's employer. Failure to appear for
25 biological testing will be considered a positive test result, unless the respondent provides
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1 acceptable and timely documentation substantiating a valid reason for failing to appear.

2 ACCEPTANCE

3 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
4 stipulation and the effect it will have on my Occupational Therapist License. I enter into this
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
6 to be bound by the Decision and Order of the California Board of Occupational Therapy.

7 DATED: 4-27-10

Anne M Hickey
8 ANNE MARIE HICKEY
9 Respondent

10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the California Board of Occupational Therapy of the Department
13 of Consumer Affairs.

14 Dated: May 3, 2010

Respectfully Submitted,

15 EDMUND G. BROWN JR.
16 Attorney General of California
17 ALFREDO TERRAZAS
18 Senior Assistant Attorney General

Diann Sokoloff
19 DIANN SOKOLOFF
20 Supervising Deputy Attorney General
21 Attorneys for Complainant

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